



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review; 2011-2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Department) has determined that requests for new shipper reviews (NSRs) of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) meet the statutory and regulatory requirements for initiation. The period of review (POR) is November 1, 2012, through April 30, 2013.

DATE: Effective [Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Lingjun Wang, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2316.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on fresh garlic from the PRC in the Federal Register on November 16, 1994.<sup>1</sup> On May 8 and 24, 2013, the Department received timely requests for NSRs from Cangshan Qingshui Vegetable Foods Co., Ltd. (Qingshui) and Jinxiang Merry Vegetable Co., Ltd. (Merry), in accordance with section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(c).

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Qingshui and Merry each certified that each is both the exporter and producer of the fresh garlic upon which their requests for NSRs are based. Pursuant to section 751(a)(2)(B)(i)(I) of

<sup>1</sup> See Antidumping Duty Order: Fresh Garlic From the People's Republic of China, 59 FR 59209 (November 16, 1994).

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the Act and 19 CFR 351.214(b)(2)(i), Qingshui and Merry each certified that they did not export fresh garlic for sale to the United States during the period of investigation (POI).<sup>2</sup> Moreover, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Qingshui and Merry each certified that, since the investigation was initiated, they have never been affiliated with any exporter or producer who exported the subject merchandise to the United States during the POI, including those not individually examined during the investigation.<sup>3</sup> Further, as required by 19 CFR 351.214(b)(2)(iii)(B), they each certified that their export activities are not controlled by the central government of the PRC.<sup>4</sup> Also, Qingshui and Merry each certified they had no subsequent shipments.<sup>5</sup>

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), Qingshui and Merry each submitted documentation establishing the following: (1) the dates on which the fresh garlic was first entered; (2) the volumes of those shipments; and (3) the dates of their first sales to unaffiliated customers in the United States.<sup>6</sup>

The Department queried the database of U.S. Customs and Border Protection (CBP) in an attempt to confirm that shipments reported by Qingshui and Merry had entered the United States for consumption and that liquidation had been properly suspended for antidumping duties. The information which the Department examined was consistent with that provided by Qingshui and Merry in their requests.<sup>7</sup>

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<sup>2</sup> See Qingshui's request for an NSR dated May 8, 2013 at Exhibit 1 and Merry's request for an NSR dated May 24, 2013 at Exhibit 1.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> See Memoranda to the File regarding "Initiation of Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China: Cangshan Qingshui Vegetable Foods Co., Ltd." and "Initiation of Antidumping Duty New Shipper Review of Fresh Garlic from the People's Republic of China: Jinxiang Merry Vegetable Co., Ltd.," both dated concurrently with this notice.

<sup>6</sup> Id.

<sup>7</sup> Id.

### Period of Review

Pursuant to 19 CFR 351.214(c), an exporter or producer may request an NSR within one year of the date on which its subject merchandise was first entered. Moreover, 19 CFR 351.214(d)(1) states that if the request for the review is made during the six-month period ending with the end of the semiannual anniversary month, the Secretary will initiate an NSR in the calendar month immediately following the semiannual anniversary month. Further, 19 CFR 315.214(g)(1)(i)(B) states that if the NSR was initiated in the month immediately following the semiannual anniversary month, the POR will be the six-month period immediately preceding the semiannual anniversary month. Within one year of the dates on which their fresh garlic was first entered, Qingshui and Merry made the requests for NSRs in May, which is the semiannual anniversary month of the order. Therefore, the Secretary must initiate these reviews in June and the POR is November 1, 2012, through April 30, 2013.<sup>8</sup>

### Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(b), and the information on the record, the Department finds that Qingshui's and Merry's requests meet the threshold requirements for initiation of an NSR. The Department intends to issue the preliminary results within 180 days after the date on which these review are initiated and the final results within 90 days after the date on which we issue the preliminary results.<sup>9</sup>

It is the Department's usual practice, in cases involving non-market economies, to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate (i.e., a separate rate) provide evidence of de jure and de facto absence of

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<sup>8</sup> The initiation notice will be published in the Federal Register in July 2013.

<sup>9</sup> See section 751(a)(2)(B)(iv) of the Act.

government control over the company's export activities.<sup>10</sup> Accordingly, the Department will issue questionnaires to Qingshui and Merry that include a separate rate section. These reviews will proceed if the responses provide sufficient indication that the exporter and producer are not subject to either de jure or de facto government control with respect to their exports of fresh garlic.

The Department will instruct CBP to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for certain entries of the subject merchandise from Qingshui and Merry in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Specifically, the bonding privilege will only apply to entries of subject merchandise exported and produced by Qingshui, and exported and produced by Merry, the sales of which are the basis for these NSR requests.

Interested parties requiring access to proprietary information in these NSRs should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

Dated: June 28, 2013.

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<sup>10</sup> See Import Administration Policy Bulletin, Number: 05.1. (<http://ia.ita.doc.gov/policy/bull05-1.pdf>).

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